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Applicability: All Covered DDSN State Employees

The language used in this policy does not create an employment contract between the employee and the Department of Disabilities and Special Needs (SCDDSN). SCDDSN reserves the right to revise the contents of this policy, in whole or in part.

Covered employees with complaints or grievances may contact the Regional Human Resource Management (HRM) Director to obtain information regarding procedures to be followed to resolve the matter or to file a formal grievance. The District HRM Director will be available to advise employees and management on procedural matters throughout the course of a formal grievance process.

The grievance procedure was established to ensure that covered employees are provided an opportunity to present their concerns and no disciplinary or prejudicial actions will be taken toward any employee because that employee exercised the right to follow the grievance procedure.

SCDDSN employees who have satisfactorily completed their probationary period are considered covered employees and have grievance rights.

GENERAL POLICY

It is the policy of the South Carolina Department of Disabilities and Special Needs to give prompt and impartial consideration to the complaints and grievances of employees without restraint, interference, coercion or reprisal. It is the responsibility of the immediate supervisor to make prompt decisions and to work toward solutions that are in the best interests of the Department of Disabilities and Special Needs and the employee involved. It is expected that the supervisor will make every reasonable effort to reach a satisfactory solution, so that employee complaints may be settled informally between the employee and the immediate supervisor.

1. CASES ENTITLED TO GRIEVANCE & APPEAL

Grievances in accordance with "The State Employee Grievance Procedure Act" shall include terminations, suspensions, involuntary reassignments in excess of thirty (30) miles and demotions.

2. CASES WHICH MAY BE ENTITLED TO GRIEVANCE & APPEAL

- a. A covered employee who is promoted and subsequently demoted prior to serving six (6) months of satisfactory service in the higher class with a higher state salary range shall not have the right to file a grievance or an appeal concerning the demotion, unless such demotion is to a lower class with a lower state salary range than the class in which the employee was serving prior to promotion.

- b. A covered employee who is promoted and subsequently is demoted with a reduction in pay prior to completing six (6) months of satisfactory service in the higher class with a higher state salary range shall not have the right to file a grievance or an appeal concerning the reduction in pay, unless the action results in a lower rate of pay than that which the employee was receiving prior to promotion.
- c. A covered employee whose position is reclassified to a class with a lower state salary range shall not have the right to file a grievance or an appeal concerning the reclassification to the State Human Resources Director unless a determination is made that a material issue of fact that the action is a punitive reclassification.
- d. Promotions are not adverse employment actions which may be considered grievances or appeals except in instances where the agency, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not an agency has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. However, when an agency promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered a grievance or an appeal.
- e. Reduction in Force is considered a grievance if the agency, or as an appeal if the State Human Resource Director, determines that there is a material issue of fact that the agency inconsistently or improperly applied the Reduction in Force policy, procedure or plan.
- f. Salary decreases if based on performance as indicated on EPMS evaluations.

3. **CASES NOT ENTITLED TO GRIEVANCE & APPEAL**

Items not entitled to appeal through the grievance procedure include but are not limited to the following:

- a. Lateral reclassifications, reassignments, and transfers within the same state salary range.
- b. Complaints or appeals from applicants for employment.
- c. Complaints or appeals from probationary or temporary employees, temporary grant, or time limited employees.
- d. A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment, or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions and the covered employee can rescind such voluntary actions only if the agency head or the agency head's designee agrees.
- e. A covered employee who receives an additional job duties and/or responsibilities salary increase, and subsequently has the additional job duties and/or

responsibilities which justified the salary increase taken away prior to completing six months of service since the additional job duties and/or responsibilities increase was given, shall not have the right to file a grievance or an appeal concerning a salary reduction equivalent to the amount of additional job duties and/or responsibilities increase.

- f. Voluntary abandonment of position.
- g. Position classification.
- h. Written work improvement notices which do not actually constitute an adverse action.
- i. Performance appraisal ratings.
- j. Reassignments not in excess of thirty (30) miles from prior work station are not considered grievable or appealable.

3. **TIME LIMITATIONS**

A formal grievance must be initiated in writing within fourteen (14) calendar days following the effective date of the grievable action. If the grievance is filed by mail, the postmark date on the envelope will be considered the date filed. In cases where the grievance is hand delivered, the date the written appeal is received in the District Director or Facility Administrator office will be considered the date filed. The time shall be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday or an official agency holiday, it shall be excluded.

4. **PROCEDURES**

The grievance process for the Department of Disabilities and Special Needs will consist of a two (2) step procedure as reflected below. Employees assigned to the regional office will file their initial grievance, step one, with the District director. Employees assigned to the residential facility will file their initial grievance, step one, with the facility administrator.

STEP ONE

District Director or Facility Administrator Procedures

The grievance of an adverse action must be filed in writing with the District Director or Facility Administrator (whichever is appropriate) within fourteen (14) calendar days after the effective date of the action. The written grievance must contain a brief statement of facts, the action which the employee is grieving, the employee's reason for grieving the action and the relief the employee is seeking. Within three (3) calendar days after receipt of a formal written grievance, the District Director or Facility Administrator will normally assign the grievance to the Regional HRM Director to gather the relevant facts surrounding the case.

However, in cases where the Regional HRM Director would not be the appropriate staff member to investigate the matter, the District Director or Facility Administrator will assign the grievance to another appropriate staff member for investigation. The HRM Director or other assigned staff member will obtain brief written statements from employees, supervisors and anyone else having knowledge of the matter. After receipt of all information, the HRM Director will assemble a packet of information containing:

1. summary page of relevant facts involved in the case;
2. copy of the relevant policies and regulations pertaining to the grievance;
3. written statements from employees or others involved;
4. a chronological summary of employee's work history; and
5. any other relevant information.

The above packet of information will normally be delivered within ten (10) calendar days of receipt of the grievance to the District Director or Facility Administrator who will review the available information, meet with the employee, render a final decision and notify the employee in writing within five (5) calendar days after the meeting. The employee will be advised of the right to proceed to Step Two.

Employees shall have the right to have a representative, including counsel at any time during the agency's grievance procedure. If an employee chooses to exercise the right to counsel, it shall be at the employee's own expense.

STEP TWO

Request For Review By The State Director Of Disabilities And Special Needs

After completion of the action in Step One, the employee may request a review by the State Director of Disabilities and Special Needs or his designee. The request for review must be in writing and must be filed within five (5) calendar days after receipt of the written decision in Step One.

The State Director or designee will review the action taken in Step One and issue a final decision for the agency and advise the employee in writing within ten (10) calendar days after receipt.

The internal time periods of the agency grievance procedure may be waived upon the mutual written agreement of both parties. The 45 calendar day period for action by the agency may not be waived except by mutual written agreement of both parties.

5. STATE HUMAN RESOURCES APPEAL PROCEDURES

A covered employee may appeal the decision of the State Director or a designee to the State Human Resources Director. Such appeal must be in writing and submitted to the Director, Office of Human Resources, Budget and Control Board, within ten (10) calendar days following receipt of the decision of the agency or within fifty-five (55) calendar days after the employee files the grievance, whichever occurs later.

In the event that the Agency has not rendered a final decision within forty-five (45) calendar days of the filing of the grievance, the employee may appeal directly to the State Human Resources Director. The agency's failure to render a decision within the 45-day period following the filing of a grievance is considered an adverse decision.

This directive rescinds 405-01-DD, Employee Grievance Procedure, dated October 31, 1994.

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(Originator)

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State Director

(Approved)